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## HOT CHECKS

### General Guidelines

- Checks \$2,499 and under will be presented to the County Attorney's Office for processing
- Checks \$2,500 and over will be presented to the District Attorney's Office for processing.

### Hot Checks that cannot be accepted as a General Rule:

1. Post Dated or Stop Payment Checks.
2. Old Checks upon the statute of limitations has run out.
3. Checks given in return for a check.
4. Checks in which you cannot provide the name of a witness (example: clerk who accepted the check).
5. Checks returned "NSF" on which no certified notice has been sent.
6. Checks presented outside Cooke County or for services performed outside Cooke County.
7. Checks presented in payment of debts, loans or charge accounts.
8. Checks where no property or services were given immediate exchange.
9. Forged or altered checks. These are forgery cases that should be filed with the Local Law Enforcement Agency.
10. Checks received through the mail.
11. Checks not presented to the bank within 30 days from the date written.
12. Checks given in furtherance of illegal activity.

If you accepted one of the types of checks listed above you might have certain remedies available to you under the Civil Laws of Texas. You will need to consult with an attorney.

## Procedures for filing a Hot Check

1. The check must be presented to the bank within 30 days of the date of issuance, even if it is known that the check will not be honored.
2. Notice must be given to the check writer that the check was not honored as well as the reason why it was not honored. The notice must also include a demand for payment within ten business days of receipt of the notice letter.
3. The notice must be sent by registered or certified mail with proof of receipt requested.
4. If the check is not paid within 10 business days after the notice is received then it may be brought to the District or County Attorney's Office for filing.

**"NSF" or "STOP PAYMENT"** -If a check is returned to you marked NSF (non-sufficient funds or stop payment):

1. You must send a certified letter, return receipt requested to the maker, demanding payment.
2. This letter **MUST** contain the language of the Texas Penal Code § 31.06 (b)(3) (If you don't have a copy, please contact our office.)
3. Either a signed green card, or the unopened envelope (please **DO NOT** open it) will be returned to you.
4. 15 days after the date you sent the letter, bring or mail to the respective office the following:
  - a. The check (original or copy received from the bank, along with documentation from the bank regarding deposit).
  - b. A completed "Worthless Check Information and Affidavit"
  - c. A copy of the letter sent.
  - d. The unopened envelope or the signed green card (certified mail receipt).

**ACCOUNT CLOSED** - If the check is returned to you marked account closed:

- a. Mail or bring to our office the check (and documentation from your bank) and the completed worthless check and information affidavit, **ONLY**.

The respective office will attempt to obtain payment from the check writer.

If payment is received it will be returned to you after the proper channels and procedures are followed (approximately 2 weeks).

If payment is not received and the case meets the elements of the offense the case can proceed criminally and a warrant issued for the arrest of the check writer, payment can possibly be made after this point and a criminal case dismissed, it is up to the discretion of the office.

Once you turn a check into this office, DO NOT ACCEPT ANY PAYMENT on the check, but direct the person attempting to make payment to our office.

If you accept the money owed to you, you are responsible for paying the processing fee that is usually collected from the check writer.

Thank you and if you have any questions please contact one of our offices and we will be glad to assist you.

A handwritten signature in cursive script that reads "John Warren".

John Warren  
District Attorney

A handwritten signature in cursive script that reads "Edmund J. Zielinski".

Edmund J. Zielinski  
County Attorney

**COOKE COUNTY  
DISTRICT AND COUNTY ATTORNEY'S OFFICE**

**Worthless Check Information and Affidavit**

The undersigned affiant, who after being duly sworn by me, makes the following statements under oath: I have good reason to believe and do believe that \_\_\_\_\_ (Name of person originally writing checks(s)) hereinafter called the accused, did commit the offense of theft by passing a worthless check. My belief is based on the following facts, as shown by the appropriately completed information as set out below, to-wit:

**FACTS ABOUT THE ACCUSED**

DL#: \_\_\_\_\_ State: \_\_\_\_\_ DOB: \_\_\_\_\_ SSN: \_\_\_\_\_  
 Description: Sex: \_\_\_\_\_ Race: \_\_\_\_\_ Height: \_\_\_\_\_ Weight: \_\_\_\_\_ Hair: \_\_\_\_\_ Eyes: \_\_\_\_\_  
 Home Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Phone #: (\_\_\_\_\_) - \_\_\_\_\_ Business Address or Employer: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ Phone #: (\_\_\_\_\_) - \_\_\_\_\_

**FACTS ABOUT THE CHECK(S)**

Was check(s) presented to bank within 30 days of receipt? \_\_\_\_\_  
 Did accused deliver the check(s) in person? \_\_\_\_\_  
 If not, who did? \_\_\_\_\_

CHECK #	DATE WRITTEN	AMOUNT OF CHECK	PERSON WHO TOOK CHECK	CAN HE/SHE IDENTIFY WRITER IN COURT	DATE RETURNED BY BANK	REASON RETURNED FROM BANK

(Attach additional sheets if necessary, with all of the above information on each check, same to be incorporated herein, under oath, for all purposes.)

TOTAL AMOUNT OF CHECK(S) \$ \_\_\_\_\_. Is it a regular policy of your business to require identification, (DL#, DOB, or SSN), by check writers in exchange for accepting their check? \_\_\_\_\_

**OTHER PERTINENT FACTS**

Restitution collected should be sent to: \_\_\_\_\_  
 Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ Phone #: \_\_\_\_\_  
 (\_\_\_\_\_) - \_\_\_\_\_  
 Additional helpful information about this case: \_\_\_\_\_

***I hereby swear or affirm that the above information is true and correct to the best of my knowledge; that the above check(s) was given in Cooke County, Texas; that said check(s) was not post dated or a hold check(s); that said check(s) was believed to have been good when it was accepted; that no partial payment has been made on said check(s); that I personally received said check(s) or that by virtue of my employment I have the authority to make this affidavit on behalf of the holder; I understand that if charges are files a warrant will be issued for the accused who may be placed in jail.***

\_\_\_\_\_  
Affiant (Complainant)

SUBSCRIBED AND SWORN to before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

(SEAL)

\_\_\_\_\_  
NOTARY PUBLIC in and for the State of Texas

Date: \_\_\_\_\_

To: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

This letter gives you official notice in accordance with Texas Penal Code Sec. 31.06 that the check on your account at the \_\_\_\_\_ Bank/Credit Union, in the amount of \$ \_\_\_\_\_ dated \_\_\_\_\_ has been returned to me by this bank for the below marked reason:

- This is a demand for payment in full for a check or order not paid because of lack of funds or insufficient funds. If you fail to make payment in full within 10 days after the date of receipt of this notice, the failure to pay creates a presumption for committing an offense, and this matter may be referred for criminal prosecution.
  
- This is a demand for a check or order not paid because of a stop payment placed on the check or order. If you fail to make payment in full within 10 days or you do not return the property within 10 days after the date of receipt of this notice, the failure to pay or return the property creates a presumption for committing an offense, and this matter may be referred for criminal prosecution.

As Authorized by Art. 9022 Vernon's Civil Statutes you owe an additional \$30.00 Processing fee.

TOTAL AMOUNT DUE: \_\_\_\_\_

Very truly yours,

\_\_\_\_\_

Mail restitution to:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_